

HB 2085

public service corporation; surety; fund

Background

At statehood, Arizona's Constitution established the Arizona Corporation Commission (ACC) to regulate privately-owned utilities that furnish natural gas, electricity, telephone, water and sewer services to the public. Under this authority, the ACC is responsible for setting the rates charged by the utilities and for making and enforcing rules and orders for the convenience, comfort, and safety, and health of the utilities' customers. A company seeking to provide utility service to the public must first obtain a Certificate of Convenience and Necessity from the ACC.

In recent years, several ACC Orders required an ACC regulated utility to obtain a performance bond or letter of credit before providing service to customers. This requirement is intended to secure customer deposits or ensure that the utility performs its obligations. The ACC is the named beneficiary, however, language is included in both the ACC's Order and the surety instrument that the surety is issued for the benefit of the utilities' customers.

During a recent ACC proceeding requiring a utility to obtain a bond, the question was raised about the ACC's legal ability to retain the proceeds from a surety instrument due to the requirement that funds be deposited into the state's general fund.

HB 2085 establishes the utility surety fund consisting of monies received as a result of the ACC exercising its rights under a surety instrument.

Provisions

- Establishes the Utility Surety Fund consisting of monies received as a result of the ACC exercising its rights under a surety instrument.
- Requires the monies in the Fund to be administered by the ACC for benefit of customers of an ACC regulated utility who have incurred loss of services or rate or deposit support.
- Specifies that the monies are continuously appropriated and do not revert to the state general fund.